REMARKS

Claims 148-157 were previously pending. With this Response, Claim 148 is amended to clarify claim language and to incorporate the concepts of Claim 154, and Claim 154 is thereby canceled. Support for the amendment may be found in the specification and original claims. As such, no new matter enters by way of the present amendment. Entry of the amendment and reconsideration of the claims as amended is respectfully requested.

I. Rejection under 35 U.S.C. § 102(e), Anticipation

Claims 148-157 stand rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Hunter *et al.* (US 2002/0056118) (hereinafter "Hunter"). This rejection is respectfully traversed for at least the reasons which follow.

It is well established that to anticipate a claim, a reference must disclose every element of the claim. *Verdegaal Bros. v. Union Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicants submit that the cited prior art fails to disclose each and every element of the present claims, and therefore does not anticipate the claimed invention.

In rejecting the claims at issue, the Examiner asserts that Hunter discloses a method of implementing a media content delivery and playback scheme. As discussed in previous responses, it is respectfully submitted that Hunter does not disclose a method wherein a processor based device enables playback of the media content at a predetermined time, rather than a consumer. For at least this reason, Hunter does not anticipate the present claims.

In addition, Hunter does not disclose a method wherein the media content is not detectable by a user for playback prior to the predetermined time. In support of the rejection in this regard, the Examiner points to teachings in Hunter concerning the ability of a user to download media content at one time, and enabled for playback later (i.e., later that night). However, there is no teaching or suggestion that the media content is not detectable for playback by the user until the predetermined time. To the contrary, the user selects the media content for download at a first time, i.e., in the morning, and then the media content is available for playback at a second time of the user's selection, i.e., at night (see Para. 117 of Hunter). There is no

disclosure that the media content would not be detectable by the user for playback at any time during the selection/download/playback transaction.

In sum, whatever else Hunter may disclose, nothing in Hunter teaches or suggests a method wherein said media content is not detectable for playback by a user prior to said predetermined time. As such, Hunter does not teach each and every element of the present claims. For at least this reason, withdrawal of this rejection is therefore respectfully requested.

CONCLUSION

In view of the above, each of the presently pending claims is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims, and to pass this application to issue. The Examiner is encouraged to contact the undersigned at (303) 863-2303 should any additional information be necessary for allowance.

Respectfully submitted,

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